


DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES
OFFICE OF THE GENERAL COUNSEL

April 23, 2009

TO: Sandra C. Lambert, Director
Division of Driver Licenses

FROM: Robin Lotane 
General Counsel

SUBJECT: DWLS Election Under Section 318.14, Florida Statutes
Docket No: 2009-0000254

Question Presented:

Does section 318.14(10)(a)1, Florida Statutes, allow a non-commercial driver charged under section 322.34(2), F.S., the option to enter a plea of nolo contendere, show proof of compliance, and allow a withhold of adjudication to the charge in certain circumstances?

Conclusion:

Yes.

Discussion:

Chapter 318, F.S., is entitled "Disposition of Traffic Infractions." Section 318.14, F.S., is entitled "Noncriminal traffic infractions; exceptions; procedures." These titles create an assumption that the provisions only apply to non-criminal matters. The question presented is whether or not the *criminal* charge of DWLSR under section 322.34(2), F.S., would fall under the chapter. Section 318.14(10)(a)1, F.S., was first created in Laws of Florida, Chapter 85-250. In 1985, all DWLSR charges were criminal pursuant to section 322.34, F. S. The non-criminal DWLSR charge first became law in Chapter 97-300, Laws of Florida. No changes were made to section 318.14(10)(a)1, F. S., at that time. In fact, no changes have been made by the Legislature on this particular section of 318.14 since it was created in 1985.

The public policy of allowing drivers to take advantage of the lesser sanctions of section 318.14(10)(a)1, F. S., and correct their cancelled, suspended or revoked status for both criminal and non-criminal charges based on the limited circumstances in this section makes sense in light of the foregoing and the legislative analysis associated with the changes in the statutes cited in Raulerson v. State, 763 So.2d 285 (Fla. 2000).

I would recommend issuing a bulletin clarifying the position of the Department and withdrawing any bulletins that do not agree with this opinion.

Please refer to the above referenced docket number when submitting future inquires regarding this matter.

cc: Dana Reiding, Chief
Bureau of Records